United Nations S/2004/376

Security Council

Distr.: General
10 May 2004

Original: English

Letter dated 30 April 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 27 February 2004 (S/2004/154). The Counter-Terrorism Committee has received the attached fourth report from Hungary submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

04-34886 (E) 230604

Annex

Letter dated 30 April 2004 from the Permanent Representative of Hungary to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

On the instruction of my Government, I have the honour to transmit herewith to you the fourth report of the Republic of Hungary to the Counter-Terrorism Committee submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

I would like to take this opportunity to reiterate the great appreciation of the Hungarian Government for the close cooperation with the Committee and to reaffirm our commitment to provide the Committee with any additional information that it deems necessary or may request.

(*Signed*) László **Molnár**
Ambassador

Enclosure

Republic of Hungary

Further report of Hungary to the Counter-Terrorism Committee on matters raised in the Chairman's letter of 30 January, 2004

1. Effectiveness in the protection of the financial system

1.1

The Hungarian FIU was set up in 1994. The police style FIU is located within the Hungarian Police Headquarters Directorate for Combating Organized Crime. Due to the altered legal background provided by the Act XV of 2003 on preventing and suppressing money laundering (AML Act) the scope of the FIU has changed and at present the following tasks need to be carried out by the Unit.

- Receiving STR-s from more than 100,000 service providers who are covered by reporting requirement and by the AML Act.
- Drafting guidelines for the new professions covered by the AML Act.
- Receiving the reports of transformation of the anonymous deposits. Checking and analyzing the bureaux de change regarding the circumstances of the applicants concerning their criminal and public safety background.
- The processing of the reports received from the Customs Authority on unusual cash cross-border transactions (UTR)
- Training of new professionals
- Acting as a *mutatis mutandis* supervisory authority concerning the professionals who have no professional supervisory authority or competent Self-Regulated Organisations (SRO) (accountants, precious metal and stone dealers, real-estate agents, tax advisors).

As a result of the extended tasks the workload of the FIU has been increased significantly. Thus the government upgraded the staff of the FIU from 9 to 18 in 2001 and to 25 in August 2002. The staff reached 30 by the 1st of November 2002.

The FIU is divided into 2 sub-units. One is dealing with analyzing the suspicious financial transaction reports (STR) and UTR while the other initiates the investigations (13 initiated in 2002) and intelligence tasks.

However, due to the widened scope of the FIU (especially concerning its additional supervisory duties) further recruitment needs to be done. The number of initiated investigations and their significance is considerably increased as the amount involved in the investigations is as much as 3 billion HUF (EURO 12. million). This proves the enhanced capability of the FIU in the field of detection.

The technical support has been upgraded as every investigator, analyst has a PC workstation, while more sophisticated software, better supporting the analytical work has not been obtained yet.
The reports on suspicion of terrorist financing shall be submitted also to the FIU. The reports on terrorist financing collected by the FIU, namely the reports related to financing of terrorism are immediately forwarded to a specialized unit (Investigative Division on Terrorism and International Crime) within the Directorate of Combating Organized Crime. This unit has the task to investigate, monitor terrorist financing issues and is responsible for international information exchange and coordination.

The Hungarian Financial Supervisory Authority (HFSA) is not responsible for anti-terrorist measures, its anti-terrorist activity can be regarded as part of its responsibilities in the field of anti-money laundering as regulator and supervisor of all financial service providers, supervisor of money and capital markets as well as corporate mergers and acquisitions in a broad sense.

In fulfilling its mission, the HFSA under its powers conferred to it by the Anti-money Laundering Act issues model-regulations to serve as compulsory models for the preparation of internal AML regulations of the institutions under its supervision. These internal regulations are to be approved by the HFSA. The model regulations are constantly updated and are available for the public on the homepage of the HFSA under "anti-money laundering".

The model-regulations, guidelines of the HFSA for financial institutions concerning directly anti-terrorism are as follows:

- Orders the on-going checking of the customer registry for persons and organisations on terrorist lists published by the UN, the EU and the USA, available on the HFSA homepage updated upon issue.
- Calls for the rigorous application of the Know Your Customer (KYC) and the Customer Due Diligence (CDD) rules for combating the financing of terrorism. Orders to report the suspicion of terrorist financing to the FIU the same way as the suspicion of money laundering.

Also under its powers conferred to it by the AML Act, the HFSA operates a monthly reporting system on the amount of reports made to the FIU in order to have a clear picture on the reporting habits of each financial service provider in the country. The number and quality of reports are regularly checked with the FIU.

The HFSA considers its duty to disseminate up-to-date information on regulatory matters throughout the financial service providers by regularly organising conferences on selected supervisory topics. A key topic is anti-money laundering and combating the financing of terrorism. The last conference and consultation on the new 40 Recommendations including the new CFT measures introduced by it took place on 18 March.

1.2

As regards to the number of STRs received by the FIU, indicating also the number of STRs analyzed and disseminated as well as the number of STRs that have resulted in investigations, prosecutions or convictions is as follows:

Suspicious Transaction Reports	1999	2000	2001	2002	2003
	930	907	1628	6271	13.032

	1998	1999	2000	2001	2002	2003
Investigation	none	2	2	6	5	9
Prosecution	none	None	none	2	2	0
Conviction	none	None	none	1	0	0
Acquittal	none	None	none	1	1	0

The reporting entities are willing to fulfill their obligation and as a result the number of STRs are relatively high, since the proportion of cash based transactions are significant. The filtering of the STRs is carried out by the FIU. This on the one hand could effect the deformation of the statistical data, but on the other hand the detection of money laundering appeared to be more effective because of the small data loss.

1.3

Training is compulsory for the staff of all institutions under the AML legislation. This is not new for the financial services industry having a long experience with training requirements since 1994. The trainings focus not only on anti-money laundering techniques but also on the financing methods of financing terrorism.

The **'new professions'** and the **judiciary** require special attention for their specific training needs. The 'new professions' are yet lacking the necessary experience with the system, while the judiciary – being a key element of the AML process -, must receive a tailor-made, well planned and executed training, with state-of -the art information.

Furthermore, the member of the FIU took part in education focusing on terrorist financing, and in specialized events such as the Conference on Combating Financing of Terrorism organised by the Council of Europe. A designated member of the Investigative Division on Terrorism and International Crime participates at the meetings of the Anti- Terrorist Task Force of the Southeast European Cooperative Initiative (SECI)

As mentioned before, according to the resolution of the Government, the FIU takes over temporarily the oversight role in the case of the professions not having an SRO. The FIU will provide these

businesses with advice and information on training and will meet to a certain extent their training needs.

Medium-term training programs for the judiciary, including prosecutors and judges are organized regularly. Judges may participate in the trainings organised for prosecutors and many of them are making use of this opportunity:

- A two-year AML training program for prosecutors and judges participating in money laundering and corruption processes.
- In September (2002) the Budapest Headquarters of the East-West Management Institute organised in the framework of its 'Partners for Financial Stability' program a conference on the prevention of money laundering, where Hungarian prosecutors were invited as well.
- The US Department of Justice organised in the Budapest branch of the International Law Enforcement Academy (ILEA) in May 2003 and 2004 a one-week training for a great number of young prosecutors with American and Hungarian lecturers on international investigation and prosecution of money laundering.
- The AML training of Hungarian judges by the UK's Judicial Studies Board took place in the second half of 2003.
- Other training opportunities for both judges and prosecutors are under preparation with other international partners.

Experts of the HFSA participate upon request as lecturers at any conference, or other meetings devoted to the subject, such as the Bankers Association's AML Committee meeting, or the demonstration of newly developed suspicious transfer screening software.

In July 2003 a Hungarian delegation participated at the conference on *Economic War on Terrorism* at the *George C. Marshall Centre for Security Studies*.

Hungary actively participates in the efforts of the European Union's *Money Laundering Contact Committee* to implement the new 40 Recommendations of the FATF by drawing up the third EU AML Directive. The Ministry of Finance and the HFSA are permanent members of the Hungarian delegation and the Ministry of Justice, the Ministry of Foreign Affairs and other government agencies are time and again also present at special occasions such as the *EU Workshop on Preventing the Financing of Terrorism* in November 2003.

The Hungarian authorities have updated the self-assessment questionnaire for the FATF 8 Special Recommendations on Terrorist Financing in May 2003.

The HFSA and the FIU are in close contact with the financial services industry by regularly consulting the other supervisory authorities playing a role in implementing the AML Act and other

responsible members of the bank management on AML/Counter Terrorist Financing regulatory topics, such as the appropriate use of different terrorist lists.

1.4.

As stated in our 3rd report and in point 1 of the present report, the suspicious financial transaction in connection with terrorist financing need to be submitted to the FIU. As indicated in the last report there has been one such report concluded. The FIU forwarded this report to the Investigative Division on Terrorism and International Crime, who made prompt measures in cooperation with the Hungarian Intelligence Services. As a result the funds of this person were frozen.

In the legal field Hungary contributes to the harmonisation of the global legal system based on the standards laid down by the United Nations, the Council of Europe and the European Union.

1.5

There has been one case detected falling under this category. The case is at present in the early stage of police investigation. The funds of the non-profit organization involved have been frozen. Further details about the case will be provided when the police or judicial process will have ended.

1.6

In Hungary, the fight against terrorism falls mainly into the competence of the Police and the National Security Service. The two bodies co-ordinate their activities on a permanent basis. A co-operation agreement was signed between these two authorities, furthermore the legal provisions, which are binding upon them, also oblige them to co-operate with each other. For the purpose of operational co-ordination, a committee was set up in 2003, in which all the law-enforcement agencies and national security services are participating.

The International Law-Enforcement Co-operation Centre hasn't been established directly within the Ministry of Interior, it is part of the National Police Headquarters, and as such, comes under the supervision of the Ministry.

Hungarian legislation enables authorities to exchange public and non-public information with domestic and foreign counterparts. Acts No. LIV. of 2002 and CXXX. of 2003 enable Hungarian law-enforcement and judicial authorities to exchange information directly in the case of urgency with foreign authorities of the Member States of the European Union; as for other states, the Act No. XXXVIII. enables exchange of information via the central competent authorities (Chief Public Prosecutor's Office/Ministry of Justice) during the criminal procedure.

1.7

The Criminal Procedure Code (Act No. XIX. of 1998) provides for the confidential handling of data of witnesses; Act No. LXXXV. of 2001 and decrees implementing that Act set up a program-based

protection for especially endangered witnesses, collaborators with justice and members of the authorities. Measures may vary from the physical protection of endangered persons to building up a new identity for them. Financial support is also supplied by the state.

Hungary has a complex legislation regarding protection of judges, prosecutors, surveillance personnel, law enforcement officers and witnesses.

The system of protection is based on three rules. (Government Decree No. 34/1999. (II. 26.) on the Conditions and Rules for Ordering the Physical Protection, Act LXXXV of 2001 on the Protection Programme for Participants of Criminal Procedures and Persons Co-operating with the Criminal Justice and Act XIX of 1998 on the Criminal Procedure Code).

According to **Section 95 of the Criminal Procedure Code,** in order to protect the life, physical integrity or personal freedom of the witness as well as to ensure that the witness fulfils the obligation of giving testimony and the testimony is given without any intimidation, the witness shall be provided protection as specified in the Criminal Procedure Code.

In the scope of this form of protection, it may be requested by the witness or the lawyer acting on behalf of the witness, or ordered ex officio that the personal data of the witness – except for his name – be handled separately and confidentially among the documents. But in exceptionally justified cases, the confidential treatment of the name of the witness may also be ordered. In such cases the data of the witness treated confidentially may only be inspected by the court proceeding in the case, the prosecutor and the investigating authority.

In accordance with rules of the criminal procedure, if the witness is specially protected, he or she is in a special situation. Such witness remains anonymous during the criminal procedure and subsequently to its completion

According to **Section 97 of Criminal Procedure Code**, the witness may be declared specially protected if

a) his testimony relates to the substantial circumstances of a particularly serious case,
b) the evidence expected by his testimony cannot be substituted,
c) the identity, the place of stay and the fact that he is intended to be heard by the prosecutor or the investigating authority is not known by the accused and the counsel for the defence,
d) the exposure of the identity of the witness would seriously jeopardise the life, limb or personal freedom of either the witness or the relatives thereof.

Section 98 of the Criminal Procedure Code regulates personal protection of participants of criminal proceedings. In exceptionally justified cases the chairperson of the panel of the court proceeding in the case, the prosecutor or the investigating authority may initiate that the defendant, the counsel for the defendant, the victim, the other interested party, the representative of the victim and the other interested party, further, the witness, the expert, the advisor, the interpreter, the official witness, or another person in consideration of any of those listed, be protected as specified in a separate piece of legislation. This regulation is the Government Decree No. 34/1999 (II. 26.).

Thus, Government Decree No. 34/1999 provides physical protection to the participants of criminal procedures and the member of the authority during the criminal procedure and subsequently to completion thereof. The physical protection is executed by the authorities (the Police, the Border Guard, the Customs and Finance Guard, the prison services).

Section 98/A of the Criminal Procedure Code contains provisions relating to persons participating in a witness protection programme.

According to this section, the participation of the defendant, victim and witness in the witness protection program specified in a separate piece of legislation shall not affect their respective rights and obligations related to the criminal proceedings; and in respect of the participants of the program, the provisions of Criminal Procedural Code shall apply with the following derogations:

a) persons participating in the program shall be summoned or notified by way of the body responsible for his protection, further, official documents to be served on such persons may only be delivered by way of the body responsible for their protection,

b) persons participating in the program shall state their original personal identification data during criminal proceedings, but give the address of the body responsible for their protection as their place of residence or stay,

c) no one – including the authorities – may be provided with a copy of documents containing the personal data of persons participating in the program and any information regarding such persons, unless they hold the permission by the body responsible for the protection of such persons,

d) costs incurred in connection with the appearance and participation of persons participating in the program may not be accounted for as cost of criminal proceedings,

e) the witness and the defendant may refuse to give testimony regarding data that imply their new identity or new place of residence or stay.

The Protection Programme is a complex programme. The aim of this programme is to provide protection to persons who take part in criminal proceedings, actively assist the administration of justice or to persons in direct connection with the former, who as a result may find themselves threatened and their personal safety calls for increased protection from the state. The Programme's further aim is to facilitate the fight against crime (in particular, severe criminal acts committed primarily in an organised manner) and the effective enforcement of the interests of law enforcement and the administration of justice through the application of special measures relative to the degree of danger that threatens the person concerned.

It is an organised form of protection of witnesses, victims and defendants participating in criminal procedures, and of the immediate family members of such persons as well as of others closely associated with such persons who may be endangered which is applicable when the physical protection would not be efficient.

The Protection Programme may be implemented during or after the criminal procedure. An agreement should be concluded with the witness, victim or defendant who co-operates with the authorities and takes part in a criminal procedure related to a very serious crime, given that criteria set forth by law are fulfilled.

As for the protection of victims, Hungarian citizens and other citizens of the European Union may claim compensation from the Public Foundation for a Safe Hungary, in case they were victims of serious violent offences in Hungary.

1.8

Under the Act on Police (Act No. XXXIV. of 1994) and the Criminal Procedure Code, the Hungarian Police is empowered to use special investigative techniques, as follows:

- by the permission of a judge: secret search of a private facility and recording the finding; technical surveillance and recording of events in a private facility; checking letters and other postal items; wire-tapping of phone-calls and electronic messages.
- by the permission of a public prosecutor: fake purchase; confidential purchase; controlled delivery; infiltration into a criminal or terrorist organisation.
- without judicial permission: use of informants or collaborators; use of covert agents; use of fake documents; running a covering enterprise; secret observation; use of a trap.

1.9

According to the Single Police-Prosecution Statistics, the following figures can be provided:

- Number of offences (Acts of Terrorism, Section 261 of the Criminal Code): 2 (2001), 2 (2002), 1 (2003).
- Number of prosecutions: 1 (2001), 1 (2002), 0 (2003).
- Number of perpetrators prosecuted: 1 (2001), 1 (2002), 0 (2003).

Unfortunately, statistical data cannot distinguish among the various forms of terrorism, as set out in the question.

1.10

Act CXXI. of 2001 amending Act IV. of 1978 on The Criminal Code came into force on the 1st of April 2002 and amended the regulation of money laundering. The new Article 303/B of The Criminal Code clearly declares that the mere contravention of a legal obligation to make a declaration committed by financial institutions can be considered as a crime.

Article 18 of Government Decree no. 299/2001 (XII.27.) completed Article 31 of Government Decree no. 218/1999 (XII.28.) on certain contraventions. According to Article 31 (3) of this Decree, the Customs Administration has it in it's own commission to act as of 1st April 2002 in the cases of infraction of the legal obligation of rendering information, or contravention of a legal obligation to make a declaration, or in the case of rendering false information at the time of crossing the border.

According to the dispositions of Act XV. of 2003 the obligations of the Customs and Finance Guard are as follows:

- The law obligates all persons crossing the border of the Republic of Hungary to inform the customs authority of cash (HUF or other currencies), circular cheques, dispatch notes of international post vouchers, transferable papers or any other money market instruments if their value exceeds 1.000.000 (one million) HUF. This information-providing obligation is accompanied by an obligation of presentation and an obligation of written declaration of all necessary relevant data determined by law.
- Should the above-mentioned obligations by persons crossing the border lead to the substantiated suspicion of money laundering, an obligation of immediate indication arises on the customs administration's side. In such a case, the customs officer is obliged to file an immediate report to the National Police Headquarters in a determined form and manner.
- A very important element of the fight against money laundering is the confidentiality of declaration. Thus the identity of the declarant has to be kept confidential for other „third" parties. An exemption is given from this disposition in case of an offence to the officials designated to file the immediate report, or concerning the transmission of information to the National Police Headquarters. According to the law, the designated persons of the Customs Administration are the heads of Customs Offices or in case of their absence their deputies.

It is well known that money laundering is not an autonomic category, it is interlaced with organised crime and poses a danger for the national safety of every state. The Hungarian Customs and Finance Guard carries out its tasks concerning this crime within the range of laws and according to decrees of implementation. For example, in the case of contravention of a legal obligation to make a declaration, prosecution of this offence has to be initiated against the perpetrator and a maximum amount of 50.000 HUF can be imposed as a fine.

Tasks after EU accession:

The related UNSC resolution will be implemented by the acquis communitaire at the time of the accession to the European Union (1 May 2004) since the Council Regulation 2580/2001 and 881/2002 will be directly applicable by the Hungarian authorities and financial institutions.

After Hungary's accession to the EU, the tasks of the Customs and Finance Guard relating to the fight against money laundering will have to be redefined according to the draft of EC Council Decision COM(2002) 328, on co-operation of Customs Administrations. According to this draft, anyone who possesses more than value EUR 15.000 in cash, traveler's checks, international money order, negotiable securities or money market instruments worth of 15.000 EUROs at the time of crossing the borders of the EU will be obliged to make a declaration of the amount. During the examination of

persons and baggage the controller customs authority will be authorized to inquire information concerning the origin of the detected cash.

1.11

No such procedures have been established yet, but in general, Hungarian authorities share all information in their possession that is relevant to terrorism with foreign counterparts, without any delay. As soon as the Directive of the European Union on passengers' data is adopted, Hungary will implement the provisions thereof by transferring passengers' data to the authorities of the United States.

The control and detection system of the Customs and Finance Guard mostly builds upon selection which is based on risk analysis. The central control units along with the others functioning at the borders constantly assess the risks which can generate the perpetration of crimes.

Risk analysis technologies also concentrate on the control of all potential factors which enable the financing of terrorist organisations, or which enable such organisations to carry out their operations (i.e. drugs, weapons, ammunitions and explosives compounds, etc.).

In order to draw up reliable risk profiles, the Customs Administration co-operates with other law enforcement and security authorities. The data acquired from the constant international press monitoring is also evaluated when establishing the risk profiles. The ongoing activities of the known terrorist organisations are also constantly assessed, and the potential risks they pose to Hungary are continuously taken into consideration. Results gathered from these sources are all taken into account during the criminal prosecution of terrorist activities.

1.12

Hungary is a land-locked country without direct access to the sea, but the Danube river is a very important waterway. Hungary has only river ports; these facilities run own security personnel and the police carries out controls as a part of their general public security activities.

The mobile control units whether operating at the border or inside the country take into account all possible security threats, including terrorist threats.

1.13.

A) LEGISLATION, REGULATIONS, ADMINISTRATIVE PROCEDURES

In Hungary, the conditions for the acquisition of civilian (sport, hunting, service, self-defense, alarm) firearms by natural persons are regulated by the Government decree No. 115/1991. (IX.10.) and by the related executive Ministerial decree No.14/1991. (X.31.) BM (BM = Ministry of Interior). According to these regulations the ultimate police permit is the basis of the acquisition and possession of any type of firearms (and ammunitions). The foreign trade in

civilian firearms and ammunitions in Hungary is regulated by the Government decree No.48/1991. (III.27.) on the export, import and re-export of military equipments and services, i.e. the Hungarian legal frame regarding foreign trade in civilian and military equipments is the same (e.g. export proceedings are the same for both hunting guns or sub-machine guns).

Hungary's national measures regarding the prevention of manufacture, stockpiling, transfer and possession of unmarked or inadequately marked

- Small and light weapons;
- Other firearms, their parts and components and ammunition;
- Plastic explosives;
- Other explosives and their precursors includes the Government decree 115/1991. (IX.10.) and Ministerial decree 14/1991. (X.31.)BM that disposes about the seizing and destruction of such instruments/agents and the respective paragraphs of the Penal Code are applicable for the persons involved in the infringement.

As of the 1st May 2004, the Government decree 48/1991. (III.27.) ceases to be valid and a new Government decree 16/2004. (II. 6) effective from the 1st May 2004, is going to dispose about the licensing of the export, import, transfer and transit of military equipment and technical equipment. The latter explicitly stipulates in the Annex that "export and import licenses can only be granted for explosives that meet the requirements stipulated in the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal, on 1st March 1 1991."

A new law on the acquisitions and possession of firearms - in accordance with the provisions of the European Union - is currently under debate in the Parliament and is going to be approved before the 1st May 2004 and, as a consequence, the above mentioned Government decree 115/1991. (IX.10.) and the Ministerial decree 14/1991. (X.31.)BM are going to loose their validity on 30th April 2004 and will be replaced by new regulations.

B) EXPORT CONTROL

FIREARMS AND AMMUNITIONS THEREOF

The highlights of the Government decree 16/2004. (II. 6.) that regulates the licensing of the export, import, transfer and transit of military equipment and technical equipment are as follows:

The Hungarian licensing system is of individual character, which means that „open" or „general" licenses do not exist in the Hungarian export control system. The 3-tier licensing system is a very strict procedural sequence, where the listed stages are non-interchangeable:

1. **Activity License** (registration of traders), license validity one or two years, with possible extensions;

2. Those registered traders planning to engage in business talks with foreign partners have to obtain a **License for Negotiation** in advance. In the application form all important details of identification of the proposed foreign partner and the specification of military equipment to be imported/exported have to be presented. The 6 months validity allows proceeding with negotiations and to conclude a contract.
3. To perform a contract, the applicant has to obtain a **Contract License** (authorization of export/import). In the application form the exact specifications (type, quantity, unit price and total value of the contract, along with the full details of the contracting partner and of the end-user) have to be presented along with the requested attachments (import license, IIC, End-User-Certificate). Validity of this authorization is one year, with possible extension.

The licenses are issued by the Hungarian Trade Licensing Office, however the applications are assessed on a case-by-case basis by the Inter-agency Committee on the Licensing of Foreign Trade in Military Equipment. The Committee's chairman is the Director of the Hungarian Trade Licensing Office, its secretary is appointed by the Minister of Economy and Transport and the members are persons designated by:

- the Minister heading the Prime Minister's office;
- the Minister of the Interior;
- the Minister of Defense;
- the Minister of Foreign Affairs;
- the Minister of Economy and Transport;
- the Minister of Finance (as supervisor of the Customs and Finance Guard).

During the licensing procedure the following general principles are observed:

- the transaction shall not violate any obligation of the Republic of Hungary under international treaties and shall not be contrary to the country's foreign policy, national defence and national security interests;
- UNSC, OSCE and EU embargoes and sanctions, the provisions of the EU Code of Conduct on Arms Exports and limitations of international regimes;
- export of firearms, ammunitions, and components thereof are dealt with equal scrutiny and conditions;
- only well known and/or well identifiable partners are allowed for negotiations;
- only professional registered dealers are considered as partners, i.e. political movements, organisations or private natural persons are excluded;
- newly established companies have to present their credentials and certifications validated by local authorities for military trading activities;
- official import/export licenses and end-user certifications are to be attached;
- if necessary, the Hungarian foreign missions are involved in the reconfirmation of authenticity of locally issued documents.

The Annex of the Government Decree 16/2004. (II.6.) includes the range of equipment and technology as contained in the Common Military List of the European Union and, in addition, imposes control on a number of items not listed in the EU Common Military List, such as

Chapter 23: Forcing and Detective, as well Criminal Investigation devices, and Chapter 24: Secret-service devices.

In Hungary all international embargo and sanctions resolutions (UN, OSCE, EU) are strictly observed and are accordingly part of the Hungarian public law and regulatory order. Also, full publicity is granted for the wanted terrorists and organizations listed under international warrant. Hungary is a member in all international non-proliferation regimes and agreements aiming at preventing the proliferation of military equipment, weapons of mass destruction and their means of delivery.

According to the Government Decree 16/2004. (II. 6.) the export and transit of military equipment and technical assistance is not permitted to countries

(a) where there is armed conflict,

(b) to countries where armed conflict threatening international peace and security is expected to take place, and where the UNSC, the Council of the EU or the OSCE have called upon the parties concerned to resolve the conflict through peaceful negotiations, or has declared an embargo,

(c) where it would be contrary to the principles of the European Union's Code of Conduct on Arms Export (adopted by the Council of the EU on 8 June, 1998).

Albeit the Code is at present a politically binding document Hungary has among the first countries made it legally binding by incorporating it into national law.

The Government Decree incorporates regulations for transit shipments, applying the same procedural rules as mentioned in the case of exports. It means that all transit applications have to be submitted to the Hungarian Trade Licensing Office in advance and are assessed with equal scrutiny, case-by-case and against the same criteria as export applications. The transit licenses furthermore, in case of lethal military equipment, live ammunition, explosives and other dangerous goods, obligates the responsible shipper for armed security escort along the transit route: from the point of entry up to the point of exit.

SMALL ARMS AND LIGHT WEAPONS (SALW)

The regulation set forth in the Government Decree 16/2004. (II. 6.) covers small arms and light weapons since these items are included into its Annex identically as in the case of the European Union's Common Military List.

EXPLOSIVES

The licensing requirements for the foreign trade in civilian explosives are determined in the Government decree 112/1991. (XII.23.). The Government decree 191/2002. (IX.4.) stipulates the licensing requirements concerning the use, handling and transfer of civilian explosives within the territory of Hungary. For any transport movements of explosives within the country it is necessary to obtain a Police Route Permit, prescribing the possible routing, the delivery

conditions and to assign a natural person declared fully responsible under the Penal Code for the safe passage of the consignment.

Foreign trade in military explosives and initiating materials are regulated by the Government Decree 16/2004. (II. 6.).

Natural persons violating the above laws and regulations - as described in the Penal Code § 261/A, § 263, § 263/A, § 263/B, § 264/C. and § 287criminal acts - are punishable up to 15 years of prison terms.

The sources where arms traders can obtain information from regarding export control mechanisms/principles are the followings:

- brochures;
- website of the Hungarian Trade Licensing Office;
- legislation;
- (personal) consultation.

As per the Government decree 16/2004. (II. 6.), the arms traders are obliged to provide statistical reports on a monthly basis to the Hungarian Trade Licensing Office covering their export and import business.

As far as the authenticity of documents for export, import and transit of firearms are concerned the Department of Arms Trade Control of the Hungarian Trade Licensing Office only accepts original copies of the Import License, the International Import Certificate and the End-User Certificate when issuing an export licence. In case the applicant is not able to obtain original copies of these documents, a copy of the document verified by diplomatic authorities can be accepted.

C) BROKERING

In order to control arms brokering and to avoid circumvention of UNSC, EU or OSCE embargoes on arms exports, as well as of the Criteria set out in the European Union's Code of Conduct on Arms Exports, Hungary has improved her national legislation by adopting the Government decree 16/2004. (II.6.) which takes into account the recommendations and Best Practice Guidelines of the relevant international organizations and the Common Position 2003/468/CFSP on the control of brokering adopted by the Council of the European Union on 23 June 2003.

Article 1 Paragraph 3 of the mentioned Government decree stipulates "brokering activity" as follows: activity conducted by legal entities defined in Article 2 (Paragraph 1) with the aim to buy or sell military equipment and services between companies of two or more countries, including initiating business, intermediary role between contracting parties, notification of business opportunities to buyers or sellers, as well as buying and selling on own accounts."

Article 2 Paragraph 2 c) says "in order to act as a representative, agent, broker or intermediary in respect of military equipment or technical assistance, whether within or outside the territory of the Republic of Hungary, the licenses required are: activity license, negotiating license and contract license."
It means that Hungary controls brokering activities both inside and outside of her territory, carried out by brokers who are Hungarian residents or established in the territory of the Republic of Hungary.

As well as in case of exports, for brokering activities all applications are assessed by the Hungarian Trade Licensing Office, inter alia, against the provisions of the European Union's Code of Conduct on Arms Exports. The Hungarian Trade Licensing Office keeps records for a minimum of 10 years of all persons and entities which have obtained a license for brokering activities. Also, a register of arms brokers is established, but the registration or authorisation to act as broker does not in any case replace the requirement to obtain the necessary license or written authorisation for each transaction. When assessing the applications to act as brokers, the Hungarian Trade Licensing Office takes into account the records of past involvements in illicit activities by the applicant.

The Government decree 16/2004. (II. 6.), in Article 4 Paragraphs (7) and (8) disposes of the possibility to share relevant information with foreign counterparts in order to enable co-operation in preventing illegal shipments of firearms, their parts and components and ammunition as well as explosives and their precursors. Since Hungary included the European Union's Code of Conduct on Arms Export into her national law and being a member of the Wassenaar Arrangement, we provide information on denied licenses to both institutions.

D) STOCKPILE MANAGEMENT AND SECURITY

The following Government decrees provide for the security of firearms, their parts and components, ammunition and explosives and their precursors at the time of the manufacture, import, export and transit through the territory of the Republic of Hungary: 155/2003. (X.1.) on controlling the civil use pyrotechnical activities, 191/2002. (IX.4.) on the activities and the control of civil use explosives, 115/1991. (IX.10.) on SALW, alarm weapons, ammunitions, shooting-grounds.

E) LAW ENFORCEMENT / ILLEGAL TRAFFICKING

The Government decree 16/2004. (II. 6.), effective from 1st May 2004, regulates the prevention and suppression of illegal trafficking of firearms, ammunition and explosives.

F) NATIONAL POINT OF CONTACT

The authorities responsible for the prevention of access to weapons by terrorists are the Ministry of the Interior and the National Security Office.

1.14.

The two agencies responsible for the implementation of legal provisions regarding sub-paragraphs 2(a) and (g) of the resolution are functioning within the Hungarian Trade Licensing Office. The main task for the Department of Arms Trade Control, as national authority for conventional arms, is the licensing of trade in military equipments listed in the Government decree 16/2004.(II. 6.) based on the European Union's Common Military List. The Department of Export Control, as national authority for dual-use items and NBC weapons, is responsible for the licensing of dual-use items (based on the Council Regulation (EC) No. 1334/2000) and the non-proliferation of NBC weapons. Both departments work in close co-operation with the National Security Agencies.